

File



March 12, 2010

Dr. Andrew P. Roth
President
Notre Dame College of Ohio
4545 College Road
South Euclid, OH 44121-4293

Certified Mail
Return Receipt Requested
7008 0150 0003 0159 0649

RE: **Final Program Review Determination Letter (FPRD)**
OPEID: 00308500
PRCN: 200720525814

Dear Dr. Roth:

The United States Department of Education (the Department) issued a program review report on May 1, 2008, covering Notre Dame College of Ohio's (NDC's) administration of programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs). The program review report contained findings of the Department's review of NDC's compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act; the ACT). The Department received NDC's response to the program review report on August 1, 2008.

Purpose:

Final determinations have been made concerning the findings of the program review report. The program review report, in its entirety, is incorporated by reference into and made part of this FPRD. The purpose of this letter is to: (1) evaluate NDC's response to each finding of non-compliance related to its administration of the Clery Act; and (2) notify NDC of possible adverse administrative action. Due to the serious nature of one or more of the enclosed findings, we have referred this FPRD to the Department's Administrative Actions and Appeals Division (AAAD) for its consideration of possible adverse administrative action pursuant to 34 CFR Part 668, Subpart G. Such action may include a fine, and/or the limitation, suspension or termination of the eligibility of NDC. If AAAD initiates an action, NDC will be notified under separate cover of that action. AAAD's notification will also include information regarding NDC's appeal rights and procedures on how to contest that action.

Appeal Procedures:

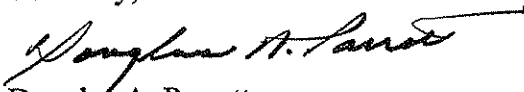
This constitutes the Department's FPRD with respect to the May 1, 2008 program review report. This program review evaluated NDC's compliance with the Clery Act and not its processing of Title IV funds. Accordingly, the final determinations reflected in this letter do not establish that NDC has any institutional liabilities relating to the misuse of federal funds. Therefore, NDC may not appeal this FPRD letter. If AAAD initiates an administrative action against NDC based on this FPRD, NDC will have the right to appeal that action at that time.

Record Retention:

Pertinent program records relating to the period covered by the program review are subject to the normal record retention requirements outlined under 34 C.F.R. § 668.24(e).

We would like to express our appreciation for the courtesy and cooperation extended during the review. If NDC has any questions regarding this letter, please contact Herschel D. Wallace III at (312) 730-1537.

Sincerely,



Douglas A. Parrott
Area Case Director
School Participation Team - Northwest
Phone: 312-730-1511
FAX: 312-730-1520

Cc: David A. Armstrong, Esq., Dean of Admissions
John C. Phillips, Vice President, Finance and administration
Michael Dugan, Director of Campus Safety and Security



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FEDERAL STUDENT AID

Prepared for

Notre Dame College of Ohio

OPE ID 00308500
PRCN 200720525814

Prepared by
U.S. Department of Education
Federal Student Aid
School Participation Team - Chicago

Final Program Review Determination

March 12, 2010

Federal Student Aid, School Participation Team NW - Chicago
500 W. Madison St, Room 1576
Chicago, IL 60661
www.FederalStudentAid.ed.gov

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Attachment: Program Review Report

A. Institutional Information

Notre Dame College of Ohio
4545 College Road
South Euclid, OH 44121-4293

Type: Private Nonprofit

Highest Level of Offering: Master's Degree or Doctor's Degree

Accrediting Agency: North Central Association of Colleges and Schools

Current Student Enrollment: 1250 (2006-2007)

% of Students Receiving Title IV: 85 % (2006-2007)

**Title IV Participation, Per U.S. Department of Education Data Base
(Postsecondary Education Participants System):**

2005-2006 Award Year

Federal Family Education Loan Program	\$6,261,092.00
Federal Pell Grant Program	\$ 764,727.00
Federal Supplemental Educational Opportunity Grant Program	\$ 54,766.00
Federal Perkins Loan Program	\$ 93,001.00
Federal Work-Study Program	\$ 69,597.00

Default Rate FFEL: (2002): 3.2%
(2003): 4.0%
(2004): 3.1%

Default Rate Perkins: (2004): 8.7%
(2005): 11.8%
(2006): 15.3%

B. Background

In June 2006, Security On Campus, Inc. (SOC) submitted a complaint to the U.S. Department of Education (the Department) that Notre Dame College of Ohio (NDC) violated the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) by failing to timely warn students and employees about two forcible sex offenses, allegedly committed by the same person, that had been reported to the Dean of Students in the fall of 2005. The person was apparently an acquaintance of each victim. When the two incidents were later reported to the campus police, a warning was issued to students (the warning was issued December 13, 2005). SOC indicated that the warning was issued at the end of the 2005 fall term and that as a result, four additional complaints against the suspect were brought forward (three during late December 2005 and one in late January 2006).

SOC maintains that had NDC had proper policies in place to coordinate reporting for Clery Act purposes, it is possible that some of the alleged forcible sex offenses could have been prevented.

In light of the information provided in SOC's letter, the Department decided to investigate NDC's compliance with the Clery Act and in particular its timely warning policy.

C. Scope of Review

The Department conducted a program review at NDC from February 26, 2007 to March 2, 2007. The review was conducted by Herschel D. Wallace III and David Heath.

The focus of the review was NDC's compliance with the Clery Act, Section 485(f) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. §1092(f) and the Department's implementing regulations in 34 C.F.R. § 668.46. The review consisted of an examination of NDC's catalog, policies, practices and procedures. In addition, we interviewed certain NDC staff members and local police.

Two findings of noncompliance were discovered during the review which the Department considers to be serious violations of the Clery Act. The findings of the review were presented in a program review report, which was issued on May 1, 2008.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning NDC's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices

and procedures. Furthermore, it does not relieve NDC of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

D. Findings and Final Determinations

The program review report findings, as they were written in the Department's May 1, 2008 Program Review Report, are reprinted below in italics. At the conclusion of each program review finding is a summary of NDC's response to the finding, and the Department's final determination for that finding.

FINDING NO. 1: FAILURE TO PROPERLY ISSUE TIMELY WARNINGS

***Citation:** The Department's regulations require that an institution must, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on specified categories of crimes, including forcible and non-forcible sex offenses, which are reported to campus security authorities and which are considered by the institution to represent a threat to students and employees (hereinafter referred to as a "timely" warning). 34 C.F.R. § 668.46(e).*

The term campus security authority includes a campus police or security department, any individuals who have responsibility for campus security who do not constitute a campus police or security department, an individual or organization specified in a institution's campus security statement as an individual or organization to which student and employees should report criminal offenses, and an official of the institution who has significant responsibility for student and campus activities including, but not limited to student housing, student discipline and campus judicial proceedings. 34 C.F.R. § 668.46(a). The regulation excludes pastoral and professional counselors from the definition of campus security authority.

***Background:** A review of the records of the College and its Police/Security Department, and interviews with the College's personnel disclosed the following events and actions.*

On or about October 10, 2005 a female student (hereinafter referred to as Student No. 1) sent a letter to the College's Dean of Student Development (hereinafter referred to as the Dean) alleging that an unnamed male student had sexually assaulted her four (4) weeks earlier in her dormitory room. Student No. 1 also expressed in the letter to the Dean her reluctance to have the incident reported to her parents, the police, or other school officials.

The Dean sent an electronic message to Student No. 1 on October 10, 2005, acknowledging receipt of the letter. The Dean acknowledged in a letter to Student No. 1, dated October 13, 2005, meeting with her to discuss the incident reported on October 10.

On or about October 31, 2005 another female student (hereinafter referred as Student No. 2) reported to a College official that a named male student had sexually assaulted her on October 29, 2005 in her dormitory room.

The Dean responded in writing to Student No. 2, via a letter dated November 1, 2005, in which the Dean acknowledged that Student No. 2 had informed the Dean that the incident occurred on October 28, 2005, rather than October 29, 2005. In the same correspondence, the Dean indicated that she would honor the student's request that no legal or judicial action be taken and that the student's parent not be informed.

On or about November 23, 2005 the Dean verbally advised the Notre Dame College Police/Security Department that two students had informed her that they had been sexually assaulted. The Dean did not identify the victims or the assailant.

On or about November 28, 2005 the Dean provided written notification to the Notre Dame College Police/Security Department that two students had informed her that they had been sexually assaulted. The Dean did not identify the victims or the assailant.

On December 12, 2005 Student No. 1 contacted the Notre Dame College Police/Security Department and identified her assailant.

On December 14, 2005 Student No. 2 contacted the College's Police/Security Department and identified her assailant.

Noncompliance: Two students reported sexual assaults to the Dean. *The Dean, who has significant authority for student affairs, meets the definition of a campus security authority under 34 C.F.R. § 668.41(e) and, as such, was required to timely notify Notre Dame College Police/Security Department of the reported sexual assaults. The Dean did not report the two sexual assaults to the Notre Dame College Police/Security Department until six weeks (in the case of Student No. 1) and three weeks (in the case of Student No. 2) after the students reported the sexual assaults.*

The Dean's delay in reporting the sexual assaults to the Notre Dame College Police/Security Department and the College's resulting failure to determine whether the reported sexual assaults represented a threat to the campus community violate the timely warning provisions of 34 C.F.R. § 668.46(e).

In addition, the reviewers observed that the College's statement of policies on campus safety in effect during the Fall of 2005 generally did not address the reporting of crimes occurring on campus. The statement did not explain the College's policies regarding timely warning to the campus community, the title of each person or organization to whom criminal offenses should be reported for purposes of early warning to the campus community, the designation of a person or organization responsible for determining

whether an early warning should be issued, and the obligation of each campus security authority to refer reported criminal offenses to the campus police or security department as required by 34 C.F.R. §§ 668.41(e) and 668.46(b)(2).

Required Action: *Notre Dame College has since revised its policies and procedures to timely determine whether reported criminal offenses represent a threat to the campus community which would require an early warning. The reviewers also observed that Notre Dame has revised its statement regarding campus safety to address the policies previously omitted. Accordingly no additional action is required.*

Response:

In its response to the program review report, NDC contended that no timely warning was required for the two incidents cited in the report. NDC accepts the conclusion that the Dean was a campus security authority. NDC stated the Dean made the determination that the incidents did not represent a threat to students and employees based upon a review of the facts. Further, NDC states the dean reported the incidents for the purposes of NDC's crime statistics. NDC included the incidents in the crime log.

NDC reported that it has taken steps to improve its process for reporting crime incidents and has created a Threat Assessment Task Force that meets on a weekly basis to discuss any issues that effect or could affect the safety of the College Community. College personnel at all levels now have clear reporting channels.

Final Determination:

The Department has determined that NDC failed to issue a timely warning to the campus community in violation of 34 C.F.R. §668.46(e). NDC's response contends that the Dean determined that no timely warning was in fact required. However, during the Fall of 2005, NDC did not have a timely warning policy setting forth the criteria for such a determination that would have provided a standard for the Dean's determination. In addition, NDC has not provided documentation substantiating either the determination or the basis upon which it was made. The Department also notes that the NDC police issued a warning to the campus community once the assaults were finally reported to them, indicating that the officials primarily responsible for crime prevention disagreed with the Dean's apparently undocumented determination. The Department considers the six and three week delays in disclosure of these crime events as inappropriate and untimely. Under the circumstances, the nondisclosure of these assaults failed to provide any notice to the campus community for such a long period that it can reasonably be considered that no timely warning to the campus community was ever issued. Further, the NDC's failure to issue a timely warning placed NDC students and faculty at risk of additional assaults.

NDC has since revised its policies and procedures to create a process to timely determine whether reported criminal offenses represent a threat to the campus community which would require an early warning. The reviewers also observed that NDC has revised its statement regarding campus safety to address the policies previously omitted. Accordingly no additional action is required.

FINDING NO. 2: INACCURATE STATISTICAL INFORMATION IN ANNUAL CRIME REPORT

Citation: 34 C.F.R. § 668.46(c)(1) states that an institution must report statistics for the three most recent calendar years concerning the occurrence of crimes on campus, in or on noncampus buildings or property, and on public property that are reported to local police agencies or to a campus security authority.

Noncompliance: For the 2005 calendar year, crime statistics for the Sex Offenses-Forcible category reported by the College in its annual campus crime report differed from the number of incidents reflected in the supporting documentation. The number of incidents for the Sex Offenses-Forcible category reported in the annual campus crime report was one. The number of incidents for the Sex Offenses-Forcible category actually supported by the back-up documentation in the College's records was five. The College documented that it had provided the correct information for the 2005 calendar year pertaining to the Sex Offenses-Forcible category to the students and staff of the College. This information is provided on the College's web site.

Required Action: The College was directed to amend the annual campus crime report to the U.S. Department of Education. The College amended the information in the annual campus crime report for the 2005 calendar year to reflect five Sex Offenses-Forcible crimes and, therefore, the annual crime report is now correct.

Response:

NDC agreed that for the 2005 calendar year, the crime statistics for the Sex Offenses-Forcible category originally reported to the Department in the annual campus crime report were incorrect. NDC stated that when that error was identified, it was promptly corrected.

Final Determination:

The College documented that it had provided the correct information for the 2005 calendar year pertaining to the Sex Offenses-Forcible category to the students and staff of the College. This information is provided on the College's web site. The College amended the information in the annual campus crime report for the 2005 calendar year to reflect five Sex Offenses-Forcible crimes and, therefore, the annual crime report is now

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correct as required by 34 C.F.R. § 668.46(c)(1). Accordingly no additional action is required.

Prepared for

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Prepared by

U.S. Department of Education

Federal Student Aid

School Participation Team - Chicago

Program Review Report

May 1, 2008

Federal Student Aid, School Participation Team NW - Chicago
500 W. Madison St, Room 1576
Chicago, IL 60661
www.FederalStudentAid.ed.gov

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Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning the College's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve the College of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

This report reflects initial findings. These findings are not final. The Department will issue its final findings in a subsequent Final Program Review Determination letter.

C. Findings

During the review, two areas of noncompliance were noted. Findings of noncompliance are referenced to the applicable statutes and regulations and specify the actions to be taken by the College to bring the College into compliance with the statutes and regulations.

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